

9/25/06 - 16

Site Plan Special Permit/Special Permit # 06/09/06-407
McDonald's USA LLC.
55 Great Road (Hunter)
Acton Massachusetts 01720

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DECISION of the Board of Selectmen (hereinafter the Board) on the petition of McDonald's USA LLC. (hereinafter the Petitioner) for the property located at 55 Great Road. Acton, Massachusetts. Said property is shown on Acton Town Atlas Map G5 Parcel 58.

This Decision is in response to an application submitted to the Board on June 9, 2006 by the Petitioner for a Special Permit & Site Plan Special Permit under Section 10.3 & 10.4 of the Acton Zoning Bylaw (hereinafter the Bylaw) to rebuild the former Burger King restaurant under a new name along with associated parking.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order on August 14, 2006 at 7:30 PM, in the Francis Faulkner Room at the Acton Town Hall. Board members Peter Ashton, F. Dore Hunter, Lauren Rosenzweig and Andrew D. Magee were present throughout the proceedings.

The record of the proceedings and submissions upon which this permit is based may be referred to in the Office of the Town Clerk, or the Office of the Board.

Exhibit I

A properly executed application for Site Plan approval received June 9, 2006, Letter to Acton Town Clerk, Letter to the Board of Selectmen, A certified abutters list, Use description, Record plans, Drainage calculations, Water balance calculations, Earth removal calculations, Traffic study, Three-sheet set of engineered plans dated June 7, 2006 revised August 8, 2006. A landscaping plan dated May 31, 2006. Three-sheet set of architectural plans dated July 21, 2006 and a lighting plan dated June 21, 2006.

Exhibit II

Interdepartmental Communication (IDC) from the Town Manager to the Town Staff requesting comments. The following IDC's were received:

1. Building Commissioner dated August 10, 2006
2. Town Planner dated July 7, 2006
3. Fire Chief dated July 13, 2006
4. Municipal Properties Director dated June 16, 2006
5. Engineering Department dated July 11, 2006
6. Health Department dated June 15, 2006
7. Transportation Advisory Committee dated June 23, 2006

Exhibit I is hereinafter referred to as the Plan:

1.0 Findings and Conclusions

Based upon its review of the exhibits and records of the proceedings, the Board found and concluded that:

- 1.1 The site is located in East Acton Village Zoning District and Zone 3 of the Groundwater Protection District and the USE is allowed in both the East Acton Village Zoning District and Zone 3.
- 1.2 The Plan provides for a sidewalk along the entire frontage. A portion of the sidewalk will be located outside the state layout. The Petitioner has agreed to prepare an easement plan to the town to allow for a ten-foot wide sidewalk in the future.

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- 1.3 The neighbors expressed concern about the hours the restaurant would be open for business. McDonalds wanted to be allowed to be open until 1:00 AM some nights. The Board found 1:00 AM may disturb the neighbors. The Board therefore limits the hours the restaurant could be open from 5:00 AM until 12:00 at night.
- 1.4 The neighbors expressed concerns about late night deliveries. The Board finds there are residential abutters and a limit on deliveries would be appropriate. The Board therefore limits deliveries no later than 10:00 PM or earlier than 6:00 AM.
- 1.5 The Town Planner has recommended a set of stairs be added in front of the restaurant to allow access from the sidewalk directly to the front of the building. The plan has been revised to reflect this request however it is not clear if the stairs would comply with the Architectural Access Board (AAB) Rules and Regulations. The Petitioner has agreed to request an advisory opinion from the AAB prior to occupancy and install the stairs if allowed.
- 1.6 The Town Engineer recommends all drainage pipe be replaced. Some of the drainage is under mature landscaping which should be preserved if possible. The Board finds the Engineer of record shall review the existing drainage and determine if the piping should be replaced. The Engineer shall provide a written report.
- 1.7 The neighbors expressed concern about the existing exterior lighting. The Petitioner indicated all existing lighting would be removed and all lighting will comply with the current Bylaw.
- 1.8 The Fire Chief recommends the Petitioner install an automatic suppression system along with connection to the Municipal Fire Alarm System. The Petitioner indicated they would comply with the Massachusetts State Building Code and will consider the Fire Chief's request.
- 1.9 The Plan as herein modified:
 - Will protect the neighborhood and the Town against seriously detrimental or offensive USES on the site and against adverse effects on the natural environment.
 - Will provide for convenient and safe vehicular and pedestrian movement and that the locations of driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation including emergency vehicles, on or adjoining the site.
 - Will provide an adequate arrangement of parking and loading spaces in relation to the proposed USES of the premises.
 - Will provide adequate methods of disposal of refuse or other wastes resulting from the USES permitted on the site.
 - Is consistent with the Master Plan.
 - Is in harmony with the purpose and intent of this Bylaw.
 - Will not be detrimental or injurious to the neighborhood in which it is to take place.
 - Is appropriate for the site and complies with all applicable requirements of this Bylaw.

Therefore, the Board voted 4-0 with Walter Foster abstaining to **GRANT** the requested Special Permit and Site Plan Special Permit subject to and with the benefit of the following, conditions and limitations.

2.0 Conditions

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- 2.1 The Petitioner shall prepare a ten-foot (10) wide easement plan along Great Road boundary. The Plan shall be prepared prior to Occupancy.
- 2.2 Prior to final inspection of the plantings by the Tree Warden, the Petitioner shall submit a letter, stamped and signed by the Landscape Architect of record, that the plantings were installed in compliance with commonly accepted industry practice, that they comply with the American Standard for Nursery Stock (ANSI Z60.1-2004), and that the actual plantings are consistent with the approved landscape plan.
- 2.3 Prior to occupancy or use of any new building constituting a part of the project, an as-built plan shall be supplied by the engineer of record certifying that the project was built according to the approved documents. The as-built plan shall show all pavement, building and drainage structure locations above and below grade in their true relationship to lot lines, and include appropriate grades and elevations. In addition to the engineer of record, said plan shall be certified by a Mass. Registered Land Surveyor. The Great Road stone bound shall be shown on the final as-built.
- 2.4 Prior to occupancy the Petitioner shall submit an as-built plan prepared by the designer that correctly reflects the as-built installation of the exterior lighting and certify the installation conforms to the requirements of the Bylaw.
- 2.5 The hours when the restaurant can be open shall be limited from 5:00 AM to 12:00 midnight.
- 2.6 No deliveries shall occur between the hours of 10:00 PM and 6:00 AM.

4.0 Limitations

The Authority granted to the Petitioner by this permit is limited as follows:

- 4.1 This permit applies only to the site, which is the subject of this petition. All construction shall be conducted in accordance with the terms of this permit and shall be limited to the improvements shown on the Plan.
- 4.2 There shall be no further development of this site without written consent of the Board of Selectmen as outlined within the Acton Zoning Bylaw.
- 4.3 This Decision applies only to the requested Site Plan Special Permit. Other permits or approvals required by the Acton Zoning Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 4.4 No approval of any indicated signs or advertising devices is implied by this Decision.
- 4.5 The hauling of earth to and from the site shall be restricted to the hours between 9:00 AM and 4:00 PM Monday through Saturday.
- 4.6 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the Acton Zoning Bylaw.
- 4.7 This Site Plan Special Permit shall lapse on September 11, 2008 unless work approved by this permit has commenced except for good cause. Any request for extensions shall be made at least thirty (30) days prior to expiration. The Board reserves the right to amend the permit by its own or at the request of the Petitioner with or without a new hearing.

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5.0 Appeals

Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17 within 20 days after the filing of this Decision with the Acton Town Clerk.

Witness our hand this day of ,2006

Andrew Magee, Vice Chairman

I, Christine Joyce, hereby certify that this is a true copy of the Decision of the Board of Selectmen.

Christine Joyce, Recording Secretary

Date filed with Town Clerk

Eva K. Taylor, Town Clerk

TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the Decision of McDonald's USA LLC. has passed and there have been no appeals made to this office.

Date

Eva K. Taylor, Town Clerk

cc: Petitioner
Building Commissioner
Planning Board
Engineering
Conservation
Director of Municipal Properties
Board of Health
Town Clerk
Planning Boards - Concord, Littleton, Westford, Maynard, Carlisle, Boxboro, Stow, Sudbury